

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, January 8, 2025

6:00 PM

**Council Chambers,
City Hall**

Members Present:

Kate M. Bosley, Chair
Philip M. Jones, Vice Chair
Edward J. Haas

Staff Present:

Elizabeth A. Dragon, City Manager
Rebecca Landry, Deputy City Manager
Amanda Palmeira, Assistant City Attorney

Members Not Present:

Andrew M. Madison
Robert C. Williams

Jay V. Kahn, Mayor

Chair Bosley called the meeting to order at 6:00 PM.

1) Keene Downtown Group – Request to Use City Property – Ice and Snow Festival – February 1, 2025

Chair Bosley requested staff comments. The Deputy City Manager, Rebecca Landry, indicated that internal staff protocol meetings have been held with the applicant. She continued that for the 2025 event, the applicant anticipates approximately 7,000 attendees so they looked at last year's attendance and used modeling software to consider the concerns about congestion of pedestrians that occurred at the 2024 event. She said the applicant made good efforts to spread out the ice sculptures and only put them in places where there would be more room for pedestrians to queue around them. This year, they would be adding three sculptures in the Farmers' Market space to help spread out even further. Twelve ice carvers were expected in addition to a number of family friendly activities. There would be a rail jam on Commercial Street with snow to be brought in from Granite Gorge. Ms. Landry continued, stating that Railroad Street would be closed for the train ride for kids as in years past. This year, the applicant also sought to close Church Street for a location for arts and crafts vendors. There would be a food court at Railroad Street in the former Vision Financial parking lot and campfires and smores on Railroad Square. She said the Airport snow blower would be there, which is always a big hit. The Colonial Theater would be participating as well, playing films for children for free.

Chair Bosley welcomed the applicant, Mark Rebillard of 64 Blackberry Lane, on behalf of the Keene Downtown Group. Mr. Rebillard, Committee Lead for the Keene Ice and Snow Festival,

thanked Ms. Landry for the fantastic introduction. He said that traffic had increased for the festival, which was great. He explained that the festival serves two purposes: (1) to create an *entirely free*, fun day for families with a lot of activities so that families can participate without spending any money if they like, and (2) to create a great sales day for downtown merchants. He said the Keene Downtown Group published a survey in 2024, which indicated that a typical Saturday in February saw an increase of sales anywhere from 30%–300% because Festival goers were encouraged to visit the stores. He added that Arts Alive created stuffed yetis for a yeti scavenger hunt that brings participants into the stores. In 2024, 12 stores participated in free hot chocolate on Main Street to help bring visitors into establishments. The merchants would contribute various activities to the festival. Mr. Rebillard thanked the City for its help in organizing everything which made this event truly easy to organize and host.

Chair Bosley said the City appreciates the event and that it is a nice break in the harsh winters, especially when the ice sculptures can stay up for a few days if the weather allows. She called it a beautiful addition to the downtown and she appreciates the effort.

Vice Chair Jones and Councilor Haas agreed that the Keene Downtown Group had done an excellent job with this Festival.

There were no public comments.

Councilor Haas made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 3–0, the Planning, Licenses and Development Committee recommends that the Keene Downtown Group be granted a street fair license to use downtown City rights-of-way for purposes of conducting merchant sidewalk sales, as well as use of downtown City property on Central Square, Church Street, Commercial Street, Gilbo Avenue, Main Street, Railroad Street, and designated parking spaces on Central Square and Main Street to conduct the Ice and Snow Festival on Saturday, February 1, 2025, from 10:00 AM to 4:00 PM, and reserving an inclement weather date of Sunday, February 2, 2025. In addition, the applicant is permitted to close off a portion of Railroad Street from Main Street to the exit of the Wells Street parking structure, Church Street from Main Street to Hannah Grimes back parking lot, and Commercial Street from Main Street to Commercial Street parking lot. The petitioner is further granted permission for two small outdoor campfires in enclosed firepits on City property adjacent to Railroad Square subject to obtainment of a burn permit from the Fire Prevention Bureau. This permission is granted subject to the signing of a revocable license and indemnification agreement, submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as additional insured, submittal of signed letters of permission from the owner for any use of private property, and compliance with any recommendations of City staff. In addition, the petitioner is granted use of the requested parking spaces free of charge under the provisions of the Free Parking Policy. The Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated in the FY 25 Community Events Budget.

2) Sign Code Modifications Requested by Mayor Kahn

Chair Bosley welcomed Mayor Jay Kahn to speak to his requested modifications to the City's Sign Code.

Mayor Kahn said he wrote this letter after it came to his attention that there were businesses in the Industrial Zone with blade signs that had been asked to remove them based on the City's Land Development Code Section 10.3. Mayor Kahn said he would want the City to do anything it could to assist the workforce of our industrial businesses in the City—and he thought many Councilors would agree—and he thought that could be the background theme for why the Council would wish for this change. Mayor Kahn said the Industrial Zone stood out as distinct. In the instance where the blade sign was asked to be removed, there was a minimum of 50 feet from the roadway, there was no sidewalk that would be obstructed, and no view that would be obstructed by the sign. He said the sign is simply to call attention to the workforce needs of the employer. Mayor Kahn reiterated that his purpose for bringing this forward and what he anticipated occurring as a result would be for the Committee to recommend that an Ordinance be prepared that would provide for an exclusion to Section 10.3 of the Land Development Code and he suggested the following language: "That blade signage be permitted in the Industrial Zone where the sign does not interfere with travel or maintenance of the right-of-way."

Chair Bosley referred to a map that was accessible on the City website to look at the Industrial Zone. Chair Bosley asked if the Mayor intended to include the Industrial Park Zone as well and Mayor Kahn replied yes.

Chair Bosley asked the Assistant City Attorney, Amanda Palmeira, where in the City's existing Sign Code these blade signs were referred to. Ms. Palmeira referred to the Definition Section of the Land Development Code where a number of different signs were defined, as well as signs in general. Ms. Palmeira said there was not a definition listed for blade signs. Ms. Palmeira continued that she believed that there was a broader category of types of signs that are animated signs, and the City had conceptually not allowed this type of signage. Blade signs were considered animated signs.

Chair Bosley asked for comments from the Community Development Department. Senior Planner, Mari Brunner, who commented that a more appropriate term for these blade signs would be "blade sail signs" or "feather signs." She referred to a definition that said these vertical signs have a harpoon style pole or staff driven into the ground or they are supported by means of an individual stand made of flexible material. They are designed to attract attention to a specific event or as the Mayor mentioned, to a business trying to hire employees. The signs typically move in the wind, so under the City's Sign Code, any sign that moves is considered animated and therefore prohibited under Table 10-2, Prohibited Signs, however there is an exception in the code for flags.

Chair Bosley said she noticed that blade signs were not called out specifically in the Sign Code so leading up to the meeting, she was trying to determine what category they would fall under in the list of Prohibited Signs. She asked if the Exceptions column of Table 10-2 could be modified to include designations for other types of signs for districts and blade signs could be added there. Ms. Brunner said she believed so. She explained that staff hoped—rather than coming back with a draft ordinance to submit for first reading—to return to the next PLD meeting with a preliminary, informal presentation for a more in-depth discussion about what exactly the Committee would be seeking before submitting an ordinance for first reading that would hopefully get through the process in one attempt. Chair Bosley asked if the Ordinance would have to go before the Joint Committee of the Planning Board & Planning, Licenses and Development Committee. Ms. Brunner said yes, it would be introduced to the City Council, referred to the Joint Committee, and then go through the standard process.

Vice Chair Jones remembered these blade signs also being called feather signs, but he thought the term animated covered it all. He recalled dealing with this issue a number of years ago for a food stand on Emerald Street. Vice Chair Jones believes that these signs are nice in the industrial area because they add color and a little something extra to a property, so he did not think they should be restricted to recruiting purposes only. From his perspective, if a business owner wants the sign and meets any established conditions, it would be fine.

Councilor Haas said these signs are great and he agreed with this change. He stressed the importance of maintaining the signs and ensuring they are installed as intended, because they are temporary, so they should be properly secured to not damage surrounding property or people. He thought that the wording in the Sign Code should be retained emphasizing that damaged signs should be removed and that they need to be properly erected and securely installed. Councilor Haas did not want to get into permitting in the Land Development Code but said there should be some stipulations about how long the signs can be erected.

Chair Bosley said that was a great segue because she shared Councilor Haas' concern and wondered if there was a rule for how long these signs could be erected, as they were not intended to be permanent and could fall into disrepair in a way that is not safe for pedestrians or vehicles. She wanted to ensure that the rules would keep the signs far enough from the roadway edge for those things to be prevented. She wondered about them being allowed up for a cumulative amount of time per year or all year; she was unsure if she had formed an opinion yet. She agreed that the Committee needed to discuss what it thought would be appropriate.

Chair Bosley pointed out that a Councilor reached out to her because they wanted to hear from the Committee about whether there was interest in allowing these signs in the Commerce Zone as well. Chair Bosley thought that would start to complicate the conversation because the Commerce Zone encompasses a lot of different streets with different characteristics. She was very comfortable with these signs in the Industrial Zone, but thought the Commerce Zone would come up at full Council.

Councilor Haas asked if the City had any regulations about timing for temporary signs at this time. Ms. Brunner was not positive but believed that there was an allowance of 14 days for temporary signs. She said that feather signs are meant to be temporary because—also known as sail signs—they are not meant to be out in high wind conditions. She thought these were things that could be reviewed at the time that a permit is issued. Even though this would go through the Zoning Code, Ms. Brunner explained that Building staff review the Sign Permits for reasons like these, to consider the structural integrity and public safety. Often, these signs are only base-weighted and not actually driven into the ground. Councilor Haas agreed that more care would be needed with the signs in that case.

Chair Bosley asked if there were limitations for how long (days per month) these signs or sandwich signs could be placed for open enrollment for schools. Ms. Brunner noted that she is not an expert in the Sign Code, so she was unsure. Chair Bosley said that was fair, noting her recollection that about a decade prior, she personally ran into this issue. She suggested looking into how the City had approached other time limitations for signs to compare and offer some consistency.

Vice Chair Jones did not think either of the recommended motions were appropriate based on the discussion. He thought the Committee should send the matter to the Mayor for him to forward it to the Joint Committee. The Chair thought there would need to be a fully fleshed out draft ordinance to send to the Joint Committee. Ms. Brunner asked if the Committee was willing to allow staff to bring an informal proposal to the next meeting to ensure they understood the Committee's wishes correctly and discuss more of the details before formalizing a draft ordinance application to send to the Joint Committee through the normal process. The Committee agreed with that plan, so Ms. Brunner suggested a motion to place this item on more time.

Councilor Haas thought there were already a lot of other restrictions and guidance on temporary signs in the Sign Code, so he thought these should be able to fit in easily. He welcomed any ideas staff would bring back to the Committee in advance to sending something to the Joint Committee. He noted that it could take a long time before it gets through the normal process, citing potentially August, and his hope that it could be expedited. Chair Bosley said that was very fair, noting her hope that if the ordinance could be developed right the first time with knowledge of what the Council is interested in, that it would expedite the process.

There were no public comments.

Vice Chair Jones made the following motion, which was duly seconded by Councilor Haas.

On a vote of 3–0, the Planning, Licenses and Development Committee recommends placing the Sign Code Modifications Requested by Mayor Kahn on more time.

3) Ordinance O-2024-19-A – Relating to Building Height in the Commerce District

Chair Bosley welcomed Planner, Evan Clements, to speak to Ordinance O-2024-19-A. Mr. Clements had nothing to add from the public hearing at the January 2 Council meeting, but welcomed questions.

Chair Bosley noted that this was an item that the Committee had gone through in fine detail with the Joint Committee of the Planning Board and the Planning, Licenses and Development Committee. There had been a public hearing with no public comments and there were none submitted in writing. So, the Chair was comfortable with the Ordinance. She recalled that this was an “A” version because there were some slight amendments that she thought would help promote what the Committee wanted to see in the Commerce Zone, while protecting the original underlying expectation of what the Commerce Zone should be. She said the Committee hoped to see some additional projects added by having this in place, so Chair Bosley was in support.

Councilor Haas pointed out a potential Scrivener’s issue: on items one and two, a–c did not align. Brief discussion and review ensued. Chair Bosley thought Councilor Haas was seeing discrepancies between the Ordinance and the Land Development Code. The Chair anticipated that the language in the Ordinance would drive a rewrite of the text in the Land Development Code so those things would be clear ultimately. Councilor Haas agreed that the intent was clear.

Vice Chair Jones thought this was great. He said the City had been stuck at a standard for a long time that went back to the days when there was less fire suppression and chain-run elevators. He thought the City was finally catching up to the future.

Councilor Haas made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 3–0, the Planning, Licenses and Development Committee recommends the adoption of Ordinance O-2024-19-A.

4) Rules of Order – Section 15. – Voting and Conflict of Interest

Chair Bosley welcomed Mayor Kahn to speak to his proposed changes to Section 15 of the Rules of Order: Voting and Conflicts of Interest. Chair Bosley noted that there were a lot of proposed edits to the Rule and this would be a significant change. She believed that this proposal from the Mayor was to align the City’s Rule with State Statutes.

Mayor Kahn explained that this was different from the original proposal, in which the Council struggled with some definitions. Since, the NH Legislature had adopted (HB 1388) the Ethics Commission’s recommendations for revised conflicts of interest rules for the Legislature had been signed into law by the Governor in August 2024 and became effective on January 1, 2025, for all NH legislators. Mayor Kahn felt that these recommendations provided the Council with basis for some definitions it had been struggling with. He recalled that this conversation began in

January 2024 and said that the goal had always been to incorporate into the City Council's Voting and Conflict of Interest Rule a definition of special interests of other members in the household of a City-elected official, which he said the NH RSA had done. The Mayor appreciated how the City Attorney had incorporated the revised RSAs 14-B and 14-C into the City's Rule, so the City did not have to define the terms on its own. Mayor Kahn said that not only had the definitions been tested by the Ethics Commission and legislative process, but the definitions would continue to be interpreted in future Ethics Commissions cases. As such, the City and Council would not need to rely only on its own experience and could look to those cases to determine whether they apply to the City. He thought the process recommended was essentially the same as the Council's current Rule that would still require an annual conflict-of-interest declaration and it would be up to the full City Council to determine whether the special interest of a Councilor or their household member is distinct from and greater than the interest of the public at large.

Mayor Kahn continued, quoting the proposed definition of Special Interest from the proposed Rule: "A Special Interest shall be deemed to exist when any person living in the same domicile as the Councilor (excluding persons with a leasehold interest)," meaning not a relative but someone renting a room or a comparable interest, "and who shares a common economic interest in the expense of daily living with the Councilor, including but not limited to a spouse, parent, or child 18 years of age or older." The Mayor said that, for example, not every parent living in a household contributes to the economic interests of the household, nor does a child who is 25 years old who has moved back home. Still, he said the Council would always depend on a Councilor's honesty in completing a Conflict of Interest form. Mayor Kahn said the proposed revisions also defined a Special Interest for a Councilor or household member as both financial and non-financial, where one "has a substantial interest in the welfare of an organization" that is greater than the interests of the public at large.

Lastly, Mayor Kahn described the proposed obligation of the Councilor and Mayor to disclose any employer or organization they have a Substantial Interest in. It would not require that they declare household members' positions or the locations of their employments, only that they are employed, which the Mayor wanted to make explicit. He thought it was clear that the Ethics Commission struggled over declaration of organizations, so it comprehensively defined when a Substantial Interest in an organization exists. The Mayor shared the example of founding the Southwestern NH Chapter of the Court Appointed Special Advocates (CASA) in 2000, for which his wife now also volunteered, to illustrate their Substantial Interest in that organization and its welfare, which is why he declares it on his annual Conflict of Interest disclosure. The Mayor concluded by reminding the Committee that the Conflict of Interest rules exist for the transparency of the public and not necessarily for the convenience of elected officials. The Council as a whole would determine whether a Councilor's special interests are sufficiently distinct from and greater than the general public's to warrant a Councilor being excluded from a debate or vote.

Chair Bosley said she had personally supported updating this particular Rule and she appreciated the added clarifying language. She said that there were many instances in which the Council had policies of practice and she appreciated when those could be identified and codified so there are no abuses. She recalled during her time on the Council many decisions to allow Councilors to not participate on financial votes relating to their organizations but allowing them to participate for non-financial votes; for example, allowing votes for a license to use City property but not a request for funding for a festival. She hoped that codifying this would provide clear expectations of the circumstances under which a Councilor should declare a conflict. Chair Bosley appreciated the transparency. She said that letting the public know that the Council is making decisions without an “agenda” is important for the public’s confidence. She said it is also important for Councilors to be aware of their fellow Councilors’ special interests when discussing topics.

Mayor Kahn said he thought this would need an affirmative vote of the Committee for this amendment to be presented for a first reading by the City Council on January 16 and a final vote at the earliest on February 6. Chair Bosley clarified that after the first reading at Council on January 16, there would be another discussion before the PLD Committee on February 12 before potentially having a recommendation back to Council on February 20. She hoped to get consensus for the direction the Council wanted to go in with this.

Councilor Haas said that Substantial Interest was very well defined, and he said that was really the goal—to clarify who has to disclose what within the Councilors’ households. It seemed to Councilor Haas that the word “conflict” had been replaced with “Special Interest,” and it seemed that the Council would be deciding whether a Special Interest exists that would impair the ability of a Councilor to judge properly; taking the idea of a conflict out of the Rule. He asked if that was how his colleagues were understanding things. The Assistant City Attorney, Amanda Palmeira, appreciated the Councilor’s point, noting that it was a product of the State’s statutory construction and the terms it had adopted. She called them terms of art that would be defined and used throughout the Rule, but she said that conceptually, they are conflicts of interest and she added that some of the State’s chapter titles where these definitions are in use reference the term “Conflict of Interest” in the title. So, Councilor Haas said that instead of judging whether there is a Conflict of Interest, the Council would be deciding based on whether the conditions for a conflict exist. He called that a significant change and it seemed to him that it would be much less adversarial in the moment when a conflict is discussed. The Councilor pointed out an editing matter: in the first paragraph the word “issue” was changed to “item,” but that change had not been consistently carried throughout. Ms. Palmeira thanked the Councilor and said she would review it with the City Attorney.

Vice Chair Jones said this was an issue the Council has gotten into the weeds on sometimes, stating himself included, but he thanked the Mayor for the clarity because it addressed issues the Vice Chair had from the beginning. Vice Chair Jones commented on how quickly the changes had proceeded through the Legislature. He was glad to have cleared up the parts he had concerns with and looked forward to seeing it go through the Council process.

There were no public comments.

Councilor Haas mentioned another edit: on the second page of the Rule (page 8 of the agenda packet) in the second paragraph, the language switched to, “The Mayor shall also be.” Councilor Haas said he read that as being subject to the conditions in this section titled Voting and Conflict of Interest, but then the Mayor would fall into the other categorizations of Special Interest and Substantial Interest, rather than the word “conflict.” Chair Bosley thought the Committee should ask the City Attorney to read that paragraph because the term “Conflict of Interest” was used twice in the red line version instead of the term “Special Interest.” She wanted to ensure it was consistent and appropriate before submitted to Council.

Vice Chair Jones made the following motion, which was duly seconded by Councilor Haas.

On a vote of 3–0, the Planning, Licenses and Development Committee recommends that the City Attorney introduce for first reading the revisions to Rule 15, Voting and Conflicts of Interest, as proposed by the Committee.

5) Adjournment

There being no further business, Chair Bosley adjourned the meeting at 6:52 PM.

Respectfully submitted by,
Katrnya Kibler, Minute Taker
January 10, 2024

Edits submitted by,
Terri M. Hood, Deputy City Clerk